

UNITED STATES DISTRICT COURT

for

Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 19, 2020

SEAN F. McAVOY, CLERK

U.S.A. vs. Finley, Leland James Docket No. 0980 1:19CR02055-SMJ-1

Petition for No Action on Conditions of Pretrial Release

COMES NOW Linda J. Leavitt, PRETRIAL SERVICES OFFICER presenting an official report upon the conduct of defendant Leland James Finley, who was placed under pretrial release supervision by the Honorable U.S. Magistrate Judge Mary K. Dimke sitting in the court at Yakima, Washington, on the 21st day of February 2020, under the following conditions:

Special Condition #7: Defendant shall obtain a portable Breathalyzer and be subject to testing up to six times per day. Defendant is responsible for the cost of the device.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

Violation #1: Mr. Finley is alleged being in violation of his pretrial release conditions by failing to submit to his portable Breathalyzer testing as required between May 14 and 15, 2020.

Conditions of pretrial release were reviewed and signed by Mr. Finley on February 24, 2020, acknowledging an understanding of his pretrial release conditions including special condition number 7.

On May 14, 2020, this officer received a report via email from Smart Start, the portable Breathalyzer testing program Mr. Finley is under, reflecting he failed to submit to his required test as scheduled at 8 a.m. This officer made contact with Mr. Finley via text message asking why he missed his Breathalyzer test. Mr. Finley stated he was at Memorial Hospital and he did not bring the testing device with him. He stated this officer was causing "unnecessary stress" by asking him about missing his testing time frame. This officer reminded Mr. Finley he is required to keep the equipment with him at all times and he cannot miss his tests. Mr. Finley became argumentative with this officer stating, "you are putting my life in jeopardy telling me I have to take the unit to the hospital." He continued to state he is "not" taking off his face mask to submit to a test as COVID-19 is airborne and his life will be in jeopardy. This officer advised Mr. Finley he can keep the unit in his pocket and go to a private location to submit the test or he could step outside of the hospital and keep a 6-foot distance from others when taking the test. Mr. Finley continued to argue with this officer stating, "I've jumped through your hoops like a dog, you've taken all my time." This officer informed the defendant I was not going to continue to go back and forth with him regarding his requirements and alcohol testing. This officer verbally reprimanded Mr. Finley for missing his test. This officer also reached out to Mr. Finley's assigned counsel asking for assistance. Mr. Finley's assigned counsel advised she would follow up with Mr. Finley regarding the above.

On May 15, 2020, this office received another notification that Mr. Finley failed to submit to his portable Breathalyzer testing between 10 p.m. and 12 a.m. This officer reached out to Mr. Finley's assigned counsel advising of the second miss, despite having addressed the first miss on May 14, 2020, with Mr. Finley. Mr. Finley's assigned counsel advised she reached out to Mr. Finley and he stated his grandfather is in the hospital and he is under a "great deal of stress, but he assures us he is back on track, so hopefully there will not be any more issues."

Since the above-noted incidents, Mr. Finley has submitted to his testing as required.


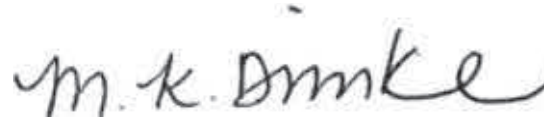
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PRAYING THAT THE COURT WILL ORDER NO ACTION AT THIS TIME

I declare under the penalty of perjury
that the foregoing is true and correct.Executed on: May 19, 2020by s/Linda J. LeavittLinda J. Leavitt
U.S. Pretrial Services Officer

THE COURT ORDERS

- ☒ No Action
☐ The Issuance of a Warrant
☐ The Issuance of a Summons
☐ The incorporation of the violation(s) contained in this
petition with the other violations pending before the
Court.
☐ Defendant to appear before the Judge assigned to the case.
☐ Defendant to appear before the Magistrate Judge.
☐ Other



Signature of Judicial Officer
5/19/2020

Date